

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

JED STEWART LINEBERRY	§	
VS.	§	CIVIL ACTION NO. 5:11-CV-88
WARDEN CARVAJAL	§	

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Jed Stewart Lineberry, a prisoner confined at the Federal Correctional Institution in Texarkana, Texas, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The Court ordered that this matter be referred to the Honorable Caroline Craven, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the petition.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the Court concludes the objections are without merit. Citing the Supreme Court's decision in *United States v. Santos*, 514 U.S. 507 (2008), petitioner alleges that his money laundering convictions are invalid. Petitioner raised this claim in his motion to vacate sentence, filed pursuant to 28 U.S.C. § 2255. The District Court found the claim was procedurally defaulted because petitioner did not raise it on direct appeal. Petitioner's request for a certificate of appealability is currently pending before the United States

Court of Appeals for the Fifth Circuit. While petitioner's request for a certificate of appealability remains pending, he has an available remedy, aside from a § 2241 petition. Therefore, this petition must be dismissed.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this 8th day of November, 2011.

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE